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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8024 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes.

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2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No.

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.

5. Whether it is to be circulated to the Civil Judge? No.

G S R T CORPORATION

Versus

BHUDARBHAI NANABHAI MALI

Appearance:

M/S THAKKAR ASSOC. for Petitioner
MR HK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 05/08/98

ORAL JUDGEMENT

Rule. Mr. H.K.Rathod waives service of Notice of

Rule on behalf of the respondent .

2. Gujarat State Road Transport Corporation(GSRTC) has filed this petition to challenge the award passed by the Labour Court in Recovery Application No. 1814 of 1986 on 31.1.97.

3. Respondent B.N.Mali was holding the post of Traffic Inspector . During the period running between 24.12.81 and 13.8.82, he was holding the additional charge of Depot Manager. He raised an industrial dispute by contending that during this period, he had put in 550 hours of duty in addition to his own duty hours and therefore, he should be paid for the said hours as over duty work carried out by him. The Labour Court on considering the materials produced before him came to the conclusion that he was not entitled to get over time charges for 208 hours instead of 550 hours and therefore, the GSRTC has come before this court by preferring the present writ petition. There is no dispute of the fact that original respondent B.N.Mali was holding additional charge of Depot Manager between 24.12.81 and 13.8.1981. I had asked the parties as to whether there are any rules for paying additional remuneration for holding of the additional charge of a post and it is brought to my notice that Rule 24 of the Service Regulations makes a provisions for such payment. Now when there is no dispute of the fact that he was holding additional charge of Depot Manager between 24.12.81 and 13.8.1982 and when he has performed the duties of the post of Depot Manager in addition to his own duties then in view of the said Rule No. 24 of Service Regulations, he will be entitled to get additional remuneration. This aspect ought to have been considered by the Labour Court while deciding the reference referred to it but it seems that unfortunately this aspect was not at all urged before the Labour Court either by the GSRTC or by the workman. It is now conceded by both the sides that Traffic Inspector is entitled to get additional remuneration under the said Rule. In view of the said admission, I hold that the award passed by the Labour Court deserves to be modified and I hereby direct that said Traffic Inspector B.N.Mali was entitled to get 10 percent of the pay scale of Depot Manager which post he was holding in addition to his own duties. I therefore, hold that said workman respondent is entitled to get 10 percent of the pay scale of the Depot Manager for the period running between 24.12.81 to 13.8.1982. Said workman has died during the pendency of this petition. Therefore, said amount will have to be paid to his widow-Kamalaben Bhadarbhai Mali. Thus this petition will have to be allowed as indicated above. The

award of the Labour Court is set aside and in its place the following award is passed.

"GSRTC do pay ten percent of the pay scale of Depot Manager for the period running between 24.12.81 to 13.8.82. Said amount should be paid to Kamalaben Bhadarbhai Mali within 8 weeks from today (5.8.12998). Over and above said amount costs of Rs. 250/- be paid to said widow. "

Rule is made absolute in the above said terms.

(S.D.Pandit.J)